HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 33353 of 1998

Dated: 05-09-2007

Between:

P.Ramalingeswara Sarma and 16 others.

..... PETITIC

AND

The Commissioner of Endowments,
A.P., Hyderabad and 5 others.

.....RESPONI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 33353 of 1998

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the proceedings of the second respondent dated 24-11-1998 whereby he transferred the petitioners to different religious institutions in the State on the orders passed by the first respondent.

The averments contained in the affidavit filed in support of the writ petition show that the transfer orders are questioned mainly on the ground that Section 39 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987, does not empower either the first respondent or the second respondent to transfer or effect the transfer of the post from one temple to another temple. It is the contention of the petitioners that each temple shall be treated as an independent unit.

At the hearing, Sri Satish Kumar, learned standing counsel brought to my notice that a batch of writ petitions involving similar issue was disposed of by a learned Single Judge in WP.No.8995 of 2006 and batch by order dated 24-04-2007, wherein the learned Judge upheld the power of the Commissioner by negativing a similar contention. He placed before the Court an order of the Division Bench of this Court in **N.Prakasam and others v. Government of Andhra Pradesh** in W.A.No.464 of 2007 and batch. The Division Bench, to which I was a member, dismissed the above mentioned writ appeal confirming the judgment of the learned Single Judge. While doing so, the Division Bench has made the following observations:

> "Before concluding, we consider it appropriate to mention that in the writ petition filed by them, the appellants did not allege mala fides against the transferring authority or any other office of the Endowments Department or higher functionaries of the government. Therefore, the action taken by the Commissioner cannot be annulled on the ground of mala fide exercise of power.
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> In the result, the appeal is dismissed. However, with a view to safeguard the conditions of service of the appellants and similarly situated persons, we direct that the competent authorities should prepare the seniority list of various cadres of the endowments and charitable

institutions, and circulate the same within a period of three months. We further direct that as and when any of the appellants become eligible to be considered for promotion within their original units, then the claim of the eligible employee shall be considered in accordance with law.

We hop and trust that the State Government will, as early as possible, consider the feasibility of finalising the draft rules so that the power vested in the Commissioner under Section 39 of the Act can be regulated by statutory guidelines."

Learned counsel for the petitioner has not disputed this position.

In view of the same, this writ petition is disposed of in terms of the judgment in Writ Appeal No.464 of 2007, dated 07-06-2007 with a direction that the said judgment shall be treated as part of this order. No costs.

C.V.NAGARJUNA REDDY,J

Date:05-09-2007
KLP